

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

CARPENTERS' DISTRICT COUNCIL OF)
GREATER ST. LOUIS AND VICINITY, et al.,)

Plaintiffs,)

v.)

KIMCO CONSTRUCTION, LLC, et al.,)

Defendants.)

Case No. 4:07CV1813-~~CDP~~JCH

ORDER

This is an action pursuant to Section 301 of the Labor Management Relations Act of 1947, as amended, 29 U.S.C. §185, and pursuant to Section 502 of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §1132. Plaintiffs seek an order compelling defendants to submit to a payroll audit and, thereafter, a judgment for contributions and damages owed.

Defendants Josephine Gutknecht and Kim Gutknecht were served with the summonses and complaint on October 27, 2007 and defendant Kimco Construction, LLC was served with the summons and complaint on November 1, 2007, and have not filed an answer or otherwise entered an appearance.

Pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure, plaintiffs have moved this Court for an order compelling defendants to submit to an audit so that plaintiffs can determine the amounts allegedly owed.

Plaintiffs have established that defendants are party to a collective bargaining agreement with the Carpenters District Council of Greater St. Louis. The agreement requires defendant Kimco Construction, LLC to submit contributions to the Carpenters employee benefit funds, and authorizes plaintiffs to examine the financial records of defendant Kimco Construction, LLC to ascertain

whether the required contributions were made. The only way in which plaintiffs can determine the amount owed is through such financial examination.

WHEREFORE, defendant Kimeo Construction, LLC is hereby ordered to provide to plaintiffs within thirty (30) days of the date of this Order the payroll registers and other documents needed to perform an audit for the period of January 1, 2006 to the present.

The Court reserves jurisdiction to make such further orders and grant such additional relief, including but not limited to the entry of partial and final judgments, as it deems appropriate.

SO ORDERED:


UNITED STATES DISTRICT JUDGE

DATE: 2/8/08 ..